



December 13, 2018

Sarika Ram
MuckRock News
Dept. MR 58538
411A Highland Ave.
Smerville, MA 02144-2516

Via email: 58538-16389465@requests.muckrock.com

Dear Ms. Ram:

This letter is in response to your public records request received by Milwaukee Public Schools on July 19, 2018, which you have made pursuant to the provisions of the Wisconsin Public Records Law. Wis. Stat. §§19.31-39. Specifically, you asked for:

1. Any policies related to the role of the Milwaukee Police Department (i.e. disciplinary intervention)
2. Any contracts and memorandums of understanding between the Milwaukee Public Schools and Milwaukee Police Department
3. Any email communications between employees of the Milwaukee Public Schools and Milwaukee Police Department
4. Any logs/records of school incident referrals to the Milwaukee Police Department or other law enforcement between January 1, 2013 to the date this request is processed
5. Any complaints submitted to the Milwaukee Public Schools between January 1, 2013 to the date this request is processed that include any of the following phrases:
 - a. 'police'
 - b. 'police officer'
 - c. 'police department'
 - d. 'safety coordinator'
 - e. '-resource officer'

On July 26, 2018, you narrowed your request, asking for:

1. Any policies related to the role of the Milwaukee Police Department (i.e. disciplinary intervention)
2. Any contracts and memorandums of understanding between the Milwaukee Public Schools and Milwaukee Police Department from August 2016 to the date this request is processed.
3. Any email communications between employees of the Milwaukee Public Schools and Milwaukee Police Department from August 2016 to the date this request is processed, including/related to any of the following words/phrases:
 - a. 'school resource officer'
 - b. 'school police officer'
 - c. 'police officer in school'

4. Any logs/records of school incident referrals (disciplinary/behavioral actions by students) that led to involvement with the Milwaukee Police Department or other law enforcement from January 1, 2013 to the date this request is processed.
5. Any complaints from students and guardians of students submitted to the Milwaukee Public Schools between August 2017 to the date this request is processed that include any of the following phrases:
 - a. 'police'
 - b. 'police officer'
 - c. 'police department'
 - d. 'safety coordinator'
 - e. 'resource officer'

The public policy in this state is to give the public the greatest amount of access to governmental records as possible. Wis. Stat. § 19.31. The presumption of access, however, is not absolute. Access to records can be denied “when there is a specific statutory exemption to disclosure, Wis. Stat. § 19.36, or when there is a common law or public policy exception.” *Watton v. Hegerty*, 2008 WI 74, ¶ 10 (Citation omitted). If there is no clear statutory or common law exception the custodian must “decide whether the strong presumption favoring access and disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure.” *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 28 (Citations omitted.) Notwithstanding the presumption of openness, the public’s right to access to public records is not absolute. *Journal/Sentinel v. Aagerup*, 145 Wis. 2d 818, 822 (Ct. App. 1988.).

In response to Item 1, the district’s policies and procedures are publicly available and maintained on <http://mps.milwaukee.k12.wi.us/en/District/About-MPS/School-Board/Policies--Procedures.htm>.

In response to Item 2, a search was conducted. Responsive records have been located with the exception of Appendix A, referenced in the 2016-2017 *Intergovernmental Cooperative Agreement for a Truancy Abatement and Burglary Suppression Program Between the Milwaukee Board of School Directors and The City of Milwaukee*.

In response to Item 3, we have redacted all personally identifiable information from pupil records. The public records law provides that members of the public have a right to access to all government records, “[e]xcept as otherwise provided by law.” Wis. Stat. §§ 19.35(1), (2), & 19.36(1). Section 118.125 of the Wisconsin Statutes, entitled the “Wisconsin Pupil Records Law,” provides such an exception. The Family Educational Rights and Privacy Act (FERPA), which is the federal law regarding pupil records, also prohibits disclosure of “education records” or “personally identifying information” contained in those records. FERPA further defines “education records” as those records that are 1) directly related to the student and 2) maintained by the educational agency or institution. 20 U.S.C. § 1232g. In general, these laws mandate that records pertaining to pupil records shall be kept confidential, with access being permitted only upon written consent or in other very limited circumstances. We have, therefore redacted the names of the students from the emails you requested.

Additionally, we have also withheld those portions of the records identified as blueprints or floor plans. An exception created by statute creates restrictions on the production and disclosure of certain building plans identified as “secure structures.” Wis. Stat. § 101.12(5). The Common Council passed an ordinance named “Secured Structure Plans,” that mirrors § 101.12. Milwaukee Code of Ordinances (MCO) Chapter 311. The purpose of the ordinance is to “protect lives and property and to preserve the peace, health, safety, and general welfare of the public.” MCO Chapter 311-1. Both the ordinance and the statute place restrictions on access to otherwise public records consisting of building plans of certain types of structures. The restrictions apply to buildings that the City determines to have “extraordinary security requirements,” including, but not limited to, structures used for the safekeeping of large sums of money, negotiable instruments, securities or other valuables, structures used in the generation or transmission or distribution of electronic power, fuels or communications or structures used to facilitate a large number of people. Wis. Stat. § 101.12(5)(a)2; MCO § 311-3-3. Milwaukee Public Schools’ buildings are included within the definition of “secure structures.” Blueprints and floor plans of any school or building within the Milwaukee Public Schools fit within the restrictions established by the statute and ordinance.

Finally, relative to Item 3, on November 7, 2018, we notified you that, pursuant to Wis. Stat. § 19.356 (2)(a), we are required to notify the employees of our contractors that employment records related to them may be released as

part of our response. We advised you that this proscribed notice would delay the transmission of our final response. At that time, we offered you the opportunity to voluntarily have that portion of the records withheld or redacted. Having received no response, we have withheld the employee's resume from our response. Should you wish to obtain a copy of the employee's resume, please file a new request and we will proceed with the notification process.

In response to Item 4, we have carefully considered the nature of your request. We have determined that we are not the custodian of such records. Students, parents, or other witnesses may contact the police of their own volition and the district would have no record of such calls for service. The Milwaukee Police Department does not routinely give the district copies of incident reports. There is simply no way for MPS to know, comprehensively, which incidents led to police involvement. Because we are not the custodian of records of calls for police service, you may wish to file a request directly with the Milwaukee Police Department for this information.

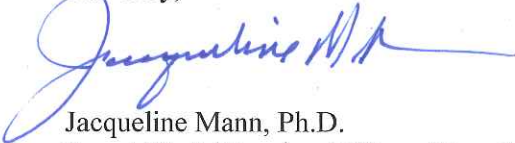
In response to Item 5, the district has numerous avenues by which students or their parents may file a complaint or a concern. The logging systems do not have a specific field relative to police involvement. Because we have no way to quickly query that information, in order to respond, we would need to do a file-by-file search to analyze each individual concern to determine if any of the words/phrases on your list were used. We are not required by a law to perform a file-by-file analysis of this nature. Consequently, we must deny this part of your request. Again, we suggest filing a request with the Milwaukee Police Department for such information.

The records that we believe to be responsive have been sent electronically to 58538-16389465@requests.muckrock.com. Because these records are already maintained electronically, there is no charge for responding to this request. With the transmission of these records to you, I will consider this records request closed.

Pursuant to Wis. Stat. § 19.34(4)(b), my decision may be subject to review by mandamus action under Wis. Stat. § 19.37(1), or upon application to the Wisconsin Attorney General or the Milwaukee County Corporation Counsel.

Should you have any questions, please contact me at 414-475-8284.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jacqueline Mann", with a stylized flourish at the end.

Jacqueline Mann, Ph.D.
Board Clerk/Director, Office of Board Governance